



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648- XC213]

#### Marine Mammals; File No. 26170

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Keith Ellenbogen, Blue Reef, 189 Schermerhorn Street, 8E; Brooklyn, NY 11201, in due form for a permit to conduct commercial and educational photography on marine mammals.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before

**[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** These documents are available upon written request via email to *NMFS.Pr1Comments@noaa.gov*.

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov*. Please include File No. 26170 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov*. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Courtney Smith, Ph.D., or Amy Hapeman, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C.

1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to observe, film, and photograph cetaceans and seals within the U.S. northeast Atlantic waters of the U.S., from the Gulf of Maine (including Cape Cod Bay and Stellwagen Bank National Marine Sanctuary) through the New York Bight (Montauk, NY to Cape May, NJ), including the Hudson Canyon. Up to 405 humpback (*Megaptera novaeangliae*; West Indies Distinct Population Segment) and long-finned pilot (*Globicephala melaena*) whales; harbor porpoise (*Phocoena phocoena*); and Atlantic white-sided (*Lagenorhynchus acutus*), bottlenose (*Tursiops truncatus*), long-beaked common (*Delphinus capensis*), Risso's (*Grampus griseus*), short-beaked common (*Delphinus delphis*), and striped (*Stenella coeruleoalba*) dolphins; and up to 675 harbor (*Phoca vitulina*) and gray (*Halichoerus grypus*) seals may be harassed annually from close approaches by marine vessels, experienced swimmers/divers, and during ground surveys for photography and filming purposes. The permit is requested for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 26, 2022.

**Julia M. Harrison,**

*Chief, Permits and Conservation Division,*

*Office of Protected Resources,*

*National Marine Fisheries Service.*

